

MEMORANDUM OF LAW

DATE: September 19, 1994

TO: Charles G. Abdelnour, City Clerk

FROM: City Attorney

SUBJECT: Filing Deadline for Recall Petition

In response to your memorandum of August 17, 1994, the City Attorney asked Senior Legal Intern Joan McNamara to research the issue of the last date for filing recall petitions under San Diego Municipal Code ("SDMC") section 27.2715. You note that on Thursday, August 16, 1994, a Notice of Intent to Circulate a Petition was published, setting in motion a recall election.

San Diego Municipal Code section 27.2715 allows recall proponents sixty (60) days to file petitions with the City Clerk. Since in this instance the sixtieth day falls on a Saturday, a day the City Clerk's office is closed for business, you ask what is the last date for filing the recall petitions.

The results of Ms. McNamara's research are attached. I have read and approved her work. She concludes that under California Code of Civil Procedure section 12a, existing California case law, and the wording of SDMC section 27.2715 pertaining to dates for filing recall petitions in the City, the date for filing the petitions is extended to the next regular business day if the sixtieth day falls on a Saturday. Therefore, the recall petitions at issue in this memorandum would not be due for filing in the City Clerk's office until the close of business on Monday, October 17, 1994.

JOHN W. WITT, City Attorney

By

Cristie C. McGuire

Deputy City Attorney

CCM:jrl:014(x043.2)

Attachment

ML-94-77